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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,445	05/23/2001	Martin Vogel	P20684	6733

7055 7590 08/06/2003

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EXAMINER

SHAPIRO, LEONID

ART UNIT

PAPER NUMBER

2673

DATE MAILED: 08/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/807,445

Applicant(s)

VOGEL ET AL.

Examiner

Leonid Shapiro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 11-25 and 27-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-25 and 27-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 08 July 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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*Drawings*

1. The corrected drawings were received and approved on 07-08-03. These drawings are Figure 1.

*Specification*

2. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 25, 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eastty et al. (US patent No. 6,359,632 B1) in view LeBrat et al. (US Patent No. 5,339,166).

As to claim 25, Eastty et al. teaches an audio signal processing apparatus comprising: an operating surface (See Fig. 1, items 10, 30, in description See Col. 2, Lines 15-27) with at least two operating elements structured and arranged to set values related to at least one of a configuration for the processing audio signals and parameters (GAIN, DELAY in the Eastty et al. reference) for the processing of the audio signals (See Figs. 1,6A, items 20,50,GAIN, DELAY, in description See Col. 2, Lines 15-26 and from Col. 3, Line 52 to Col. 4, Line 23); a at least one screen structured and arranged to display set values of at least two operating elements (See Figs. 6A-6B, items GAIN, PAN, in description See from Col. 3, Line 52 to Col. 4,

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Line 23); a computer coupled to at least two operating elements and to at least one screen, structured and arranged to acquire set values and transmit set values to at least one screen for display (See Fig. 1, 6A, items 20, 30, GAIN, in description See Col. 2, Lines 19-26 and Col. 3, Lines 1-7); a signal processor coupled to computer, wherein computer transmits set values to signal processor to adjust the processing of the audio signals by signal processor (See Fig. 1, items 20, 50, in description See Col. 2, Lines 19-26).

Eastty et al. does not show algorithm library coupled to computer and signal processor.

LeBrat et al. teaches the algorithm library connected to the computer (See Fig. 7, steps 1001-1016, in description See Col. 22, Lines 44-57). It would have been obvious to one of ordinary skill in the art at the time of invention to add the algorithm library as shown by LeBrat et al. in Eastty et al. apparatus in order to provide variety of extensions to the existing functions (See Col. 1, Lines 8-11 in the LeBrat et al. reference).

As to claims 27-28, Eastty et al. teaches one of operating elements is structured and arranged to define a configuration for the processing of the audio signals and adjust a value of at least one selected parameter without changing configuration (See Figs. 1, 6A, items 20, 50, in description See Col. 2, Lines 19-26 and from Col. 3, Line 52 to Col. 4, Line 24).

As to claim 29-30, Eastty et al. teaches computer is structured and arranged to acquire states of at least two elements via signals in at least two fields of screen and display these states on screen (See Fig. 1, 6B, items 20, 50, in description See Col. 3, Lines 1-6 and from Col. 3, Line 52 to Col. 4, Line 23).

4. Claims 11-16, 19-24, rejected under 35 U.S.C. 103(a) as being unpatentable over Eastty et al. in view of Bergman et al. (US Patent No. 5,859,631).

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As to claim 11, Eastty et al. teaches a device for setting values for processing of audio signals, with a signal processor (See Fig. 1, item 50, in description See Col. 2, Lines 15-18); at least two elements structured and arranged for at least one of manually entering and adjusting the values (See Fig. 6A, items GAIN, DELAY, in description See from Col. 3, Line 52 to Col. 4, Line 23); a screen for displaying the at least one of entered and adjusted values, screen comprising at least two fields (See Figs. 6A-6B, items GAIN, PAN, in description See from Col. 3, Line 52 to Col. 4, Line 23); a computer coupled to at least two elements via connections in front of the screen, computer being structured and arranged to acquire the at least one of the entered and adjusted values and to display acquired value on at least two fields of screen (See Fig. 1, 6A, items 20, 30, GAIN, in description See Col. 2, Lines 19-26 and Col. 3, Lines 1-7); computer being coupled to signal processor for processing of audio signals and structured and arranged to transmit control commands to signal processor for processing the audio signals according to at least one of manually entered and adjusted values established by at least two elements (See Fig. 1, items 20, 50, in description See Col. 2, Lines 19-26).

Eastty et al. does not show a carrier for at least two elements being located, relative to a viewing direction of the screen, in the front of screen.

Bergman et al. teaches a carrier for at least two elements being located, relative to a viewing direction of the screen, in the front of screen (See Fig. 1, items 4,8,10, in description See from Col. 2, Line 65 to Col. 3, Line31). It would have been obvious to one of ordinary skill in the art at the time of invention to implement a carrier as shown by Bergman et al. in the Eastty et al. apparatus in order to provide front panel having additional mechanical user interface that is simple to alter (See Col. 1, Lines 39-41 in the Bergman et al. reference).

As to claim 12, Eastty et al. teaches set values of the at least one of manually entered and adjusted values depend upon position of at least two elements (See Fig. 6A, items GAIN, DELAY, in description See from Col. 3, Line 52 to Col. 4, Line 23).

As to claim 13, Bergman et al. teaches carrier includes transparent regions assigned to at least two elements (See Fig. 1, items 4, in description See from Col. 2, Line 64 to Co. 3, Line 1).

As to claim 14, Eastty et al. teaches computer determines a configuration for the processing of the audio signals in the signal processor (See Fig. 1, items 20, 50, in description See Col. 2, Lines 19-26).

As to claim 15, Bergman et al. teaches a device for mounting electronic components is positioned between carrier and screen (See fig. 1, items 4,6,8,10).

As to claim 16, Bergman et al. teaches a device for mounting electronic components is positioned between carrier and screen (See fig. 1, items 4,6,8,10, in description See from Col. 2, Line 64 to Co. 3, Line 31).

As to claim 19, Eastty et al. teaches computer is structured and arranged to determine a configuration of the device by detecting positions of at least two elements (See Fig. 1, 6B, items 20, 50, in description See Col. 3, Lines 1-6 and from Col. 3, Line 52 to Col. 4, Line 23).

As to claim 20, Eastty et al. teaches additional elements which are different (See Fig. 1, 6B, items 20, 50, in description See Col. 3, Lines 1-6 and from Col. 3, Line 52 to Col. 4, Line 23).

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As to claims 21-22, 24, Eastty et al. teaches computer is structured and arranged to acquire states of at least two elements via signals in at least two fields of screen and display these states on screen (See Fig. 1, 6B, items 20, 50, in description See Col. 3, Lines 1-6 and from Col. 3, Line 52 to Col. 4, Line 23).

As to claim 23, Eastty et al. teaches at least one element which is an operating element structured and arranged for configuring an audio mixer (See Fig. 1, in description See Col. 1, Lines 15-18).

5. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eastty et al. and Bergman et al. as aforementioned in claim 11 in view of Silfvast (US Patent No. 5,959,610).

Eastty et al. and Bergman et al. do not show at least one shaft encoder.

Silfvast teaches a shaft encoder in computer-mirrored panel input device (See Figs. 3, 5A, items 25,27,29, in description See from Col. 2, Line 64 to Col. 3, Line 10 and Col. 5, Lines 23-24). It would have been obvious to one of ordinary skill in the art at the time of invention to implement a shaft encoder as shown Silfvast in the Bergman et al. and Eastty et al. apparatus in order to provide front panel having additional mechanical user interface that is simple to alter (See Col. 1, Lines 39-41 in the Bergman et al. reference).

6. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eastty et al. and Bergman et al. as aforementioned in claim 11 in view of Jaeger (US Patent No. 5,786,811).

Eastty et al. and Bergman et al. do not show at least one linearly adjustable transmitter.

Jaeger teaches a linearly adjustable transmitter (See Figs. 36-38, items 246-249, in description See from Col. 21, Line 60 to Col. 23, Line 26). It would have been obvious to one of ordinary skill in the art at the time of invention to implement a linearly adjustable transmitter as shown Jaeger in the Bergman et al. and Eastty et al. apparatus in order to provide front panel having additional mechanical user interface that is simple to alter (See Col. 1, Lines 39-41 in the Bergman et al. reference).

### *Response to Amendment*

7. Applicant's arguments filed on 07-08-03 with respect to claims 25, 27-30 have been considered but are moot in view of the new ground(s) of rejection.

8. Applicant's arguments filed on 07-08-03 with respect to claims 11-24 have been fully considered but they are not persuasive:

On pages 12-14, Applicants discussed limitations of independent claim 11 in relation to Eastty and Bergmann et al. references individually. However, Applicants cannot show non-obviousness by attacking references individually where, as here the rejections are based on combination of references. In re Keller, 208 USPQ 871 (CCPA 1981).

On pages 14-17, Applicants stated that for independent claim 11 in relation to Eastty and Bergman et al. references art of record fails to provide any suggestion that it would obvious to combine these devices. However, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed



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invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Bergman et al. reference suggests: 'provide front panel having additional mechanical user interface that is simple to alter' (See Col. 1, lines 39-41).

On pages 17-18, Applicants discussed limitations of claim 17 in relation to Eastty, Bergmann et al. and Silfvast references individually. However, Applicants cannot show non-obviousness by attacking references individually where, as here the rejections are based on combination of references. *In re Keller*, 208 USPQ 871 (CCPA 1981).

On pages 18-19, Applicants stated that for claim 17 in relation to Eastty, Bergman et al. and Silfvast references art of record fails to provide any suggestion that it would obvious to combine these devices. However, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Bergman et al. reference suggests: 'provide front panel having additional mechanical user interface that is simple to alter' (See Col. 1, lines 39-41).

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On pages 19-20, Applicants discussed limitations of claim 18 in relation to Eastty, Bergmann et al. and Jaeger references individually. However, Applicants cannot show non-obviousness by attacking references individually where, as here the rejections are based on combination of references. In re Keller, 208 USPQ 871 (CCPA 1981).

On pages 20-21, Applicants stated that for claim 18 in relation to Eastty, Bergman et al. and Jaeger references art of record fails to provide any suggestion that it would obvious to combine these devices. However, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Bergman et al. reference suggests: 'provide front panel having additional mechanical user interface that is simple to alter' (See Col. 1, lines 39-41).

### *Conclusion*

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

*Telephone inquire*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonid Shapiro whose telephone number is 703-305-5661. The examiner can normally be reached on 8 a.m. to 5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala can be reached on 703-305-4938. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4750.

Is  
July 17, 2003



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